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13 RESEARCH IN MOTION LIMITED and
14 RESEARCH IN MOTION CORPORATION

15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 RESEARCH IN MOTION LIMITED,
20 Plaintiff,
21 v.
22 VISTO CORPORATION,
23 Defendant.

24 AND RELATED COUNTERCLAIMS

25 Case No. C-07-3177 (MMC)

26 **DECLARATION OF PHILIP T. CHEN IN
27 SUPPORT OF RIM'S MOTION TO STAY
28 PROCEEDINGS RELATING TO THE
VISTO PATENTS PENDING
REEXAMINATION**

HEARING REQUESTED

Date: February 22, 2008
Time: 9:00 a.m.
Judge: The Honorable Maxine M. Chesney

1 I, Philip T. Chen, declare:

2 1. I am a partner with Kirkland & Ellis LLP, the law firm representing Research In
3 Motion Limited and Research In Motion Corporation (collectively “RIM”) in the above-captioned
4 matter.

5 2. Attached hereto as **Exhibit A** is a true and correct copy of the *inter partes*
6 reexamination request (exhibits omitted) for U.S. Patent No. 7,228,383, submitted by RIM to the
7 United States Patent and Trademark Office (“Patent Office”) on January 8, 2008.

8 3. Attached hereto as **Exhibit B** are true and correct copies of excerpts from the Manual
9 of Patent Examining Procedure at Sections 2241 and 2641.

10 4. Attached hereto as **Exhibit C** is a true and correct copy of the *ex parte* reexamination
11 request (exhibits omitted) for U.S. Patent No. 7,225,231, submitted by RIM to the Patent Office on
12 January 9, 2008.

13 5. Attached hereto as **Exhibit D** are true and correct copies of excerpts from the most-
14 recent office action issued by the Patent Office on September 24, 2007 in the reexamination of U.S.
15 Patent No. 6,708,221, rejecting all challenged claims of the patent. The ‘231 patent issues from an
16 application that purports to be a continuation of the application resulting in the ‘221 patent.

17 6. Attached hereto as **Exhibit E** are true and correct copies of excerpts from the most-
18 recent office action issued by the Patent Office on September 20, 2007 in the reexamination of U.S.
19 Patent No. 7,039,679, rejecting all challenged claims of the patent. The ‘679 patent issues from an
20 application that purports to be a continuation of the application resulting in the ‘221 patent.

21 7. Attached hereto as **Exhibit F** are true and correct copies of excerpts from the most-
22 recent office action issued by the Patent Office on September 5, 2007 in the reexamination of U.S.
23 Patent No. 6,085,192, rejecting all challenged claims of the patent. The ‘221 patent issues from an
24 application that purports to be a continuation-in-part of the applications resulting in the ‘192 and
25 ‘708 patents.

26 8. Attached hereto as **Exhibit G** are true and correct copies of excerpts from the most-
27 recent office action issued by the Patent Office on August 3, 2007 in the reexamination of U.S.
28 Patent No. 6,023,708, rejecting all challenged claims of the patent. The ‘221 patent issues from an

1 application that purports to be a continuation-in-part of the applications resulting in the '192 and
2 '708 patents.

3 9. Attached hereto as **Exhibit H** are true and correct copies of excerpts from the most-
4 recent office action issued by the Patent Office on September 20, 2007 in the reexamination of U.S.
5 Patent No. 6,151,606, rejecting all challenged claims of the patent. The '606 patent issues from an
6 application that claims priority to and incorporates by reference the application resulting in the '708
7 patent.

8 10. Attached hereto as **Exhibit I** are true and correct copies of excerpts from a report
9 titled "U.S. Patent and Trademark Office – Performance and Accountability Report – Fiscal Year
10 2007." Tables 13A and 13B on page 121 of this report show that, in 2007, the Patent Office granted
11 577 *ex parte* reexamination requests out of 594 determinations made, and granted 118 *inter partes*
12 reexamination requests out of 119 determinations made.

13 11. Attached hereto as **Exhibit J** is a true and correct copy Visto's Preliminary
14 Infringement Contentions in this case (exhibits omitted), served on October 19, 2007.

15
16 I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th
17 day of January 2008 in Los Angeles, California.

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19 /s/ Philip T. Chen
20 Philip T. Chen
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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 777 S. Figueroa Street, 37th Floor, Los Angeles, California 90017.

On January 18, 2008, I caused a copy of the following document(s) described as:

DECLARATION OF PHILIP T. CHEN IN SUPPORT OF RIM'S MOTION TO STAY PROCEEDINGS RELATING TO THE VISTO PATENTS PENDING REEXAMINATION

to be served on the interested parties in this action as follows:

[VIA ELECTRONIC MAIL] I caused said document[s] to be sent by electronic mail to the email address(es) indicated for the party(ies) listed below:

Robert D. Becker
E-mail: rbecker@manatt.com
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[FEDERAL] I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

Executed January 18, 2008, at Los Angeles, California.

/s/ Phillip T. Chen

Phillip T. Chen